

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

ORIGINAL

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 96-7
Table of Allotments,	)	RM-8732
FM Broadcast Stations,	)	RM-8845
(Banks, Redmond, Sunriver and Corvallis, Oregon)	)	
	)	
In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 96-12
Table of Allotments,	)	RM-8741
FM Broadcast Stations	)	
(The Dalles and Corvallis, Oregon)	)	
	)	
In re Application of	)	
	)	
Madgekal Broadcasting, Inc.	)	File No. BPH-960206IE
Station KFLY(FM), Corvallis, Oregon	)	
	)	
For Construction Permit to Modify	)	
Licensed Facilities (One-Step Upgrade)	)	

**RECEIVED**

AUG - 4 2004

To: The Commission

Federal Communications Commission  
Office of Secretary

**JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**

Madgekal Broadcasting, Inc. ("MBI"), former licensee of Station KFLY(FM), Corvallis, Oregon, Citicasters Licenses, L.P. ("Citicasters"), current licensee of Station KFLY, and Infinity Radio Inc. ("Infinity"), licensee of Station KVMX(FM), Banks, Oregon, herein jointly request (a) approval of the Settlement Agreement submitted herewith as Attachment A and (b) grant of the

pending license application to implement the upgrade of Station KVMX from Class C2 to Class C1 (FCC File No. BLH-19990305KD) (the “KVMX License Application”). This proceeding is currently the subject of two consolidated cases before the United States Court of Appeals for the District of Columbia Circuit. *Madgekal Broadcasting, Inc. v. FCC*, Case No. 04-1202; *Citicasters Licenses, L.P. v. FCC*, Case No. 04-1204 (consolidated by Order filed June 30, 2004).<sup>1</sup> In support of this motion, the following stated:

**A. Background.**

On February 6, 1996, in response to a petition filed by Common Ground Broadcasting, Inc., the Commission issued a *Notice of Proposed Rule Making and Order to Show Cause*, 11 FCC Rcd 1686 (Chief, Allocation Branch 1996), which, among other actions, proposed to upgrade Station KVMX (then KDBX) from Class C2 to Class C1 status (the “KVMX Proposal”).

On the same day, MBI, then the licensee of Station KFLY, filed an application (FCC File No. BPH-960206IE) to upgrade Station KFLY from Class C2 to Class C status (the “KFLY Proposal”).

On February 13, 1996, in response to a petition from LifeTalk Broadcasting Association, the Commission issued a *Notice of Proposed Rule Making*, 11 FCC Rcd 1788 (Chief, Allocations Branch 1996), proposing allotment of Channel 268C3 at The Dalles, Oregon, and reservation of the channel for noncommercial educational use (the “LifeTalk Proposal”). The KFLY Proposal was

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<sup>1</sup> On July 29, 2004, the Court granted a motion Infinity filed to intervene in those cases. On the same day, the Court granted the parties’ “Joint Motion to Hold in Abeyance and for Remand of Record” to defer various filing deadlines pending FCC review of the settlement agreement submitted herewith. The Court’s order directs the FCC to report within 60 days of the order, and each 60 days thereafter, on the status of its consideration of this settlement agreement.

mutually exclusive with both the KVMX Proposal and the LifeTalk Proposal. Accordingly, the three proposals were consolidated in the above-captioned proceeding.

American Radio Systems License Corp. ("ARS") subsequently acquired KVMX. On March 20, 1997, ARS and MBI entered into a Settlement Agreement (the "1997 Settlement Agreement"). MBI agreed, upon FCC approval of the 1997 Settlement Agreement, to amend the KFLY Proposal so it would no longer conflict with the KVMX Proposal. The amendment also would have removed the conflict with the LifeTalk Proposal. In return, ARS agreed to pay MBI the sum of \$950,000. ARS and MBI filed a joint request for approval of the agreement on March 20, 1997.

In *Report and Order*, 13 FCC Rcd 6596 (Chief, Allocations Branch 1998), the staff denied the joint request. The Bureau found that the agreement was within the scope of Section 1.420(j) of the Commission's Rules, which limited consideration to be paid in return for withdrawal or dismissal of an "expression of interest" in allotment proceeding to no more than the withdrawing or dismissing party's reasonable and prudent expenses. Because the consideration to be paid MBI exceeded its expenses, the Commission refused to approve the settlement. Turning to the comparative aspects of the proceeding, the Commission approved the KVMX Proposal and the LifeTalk Proposal and denied the KFLY Proposal.

On May 19, 1998, MBI filed a Petition for Reconsideration. While the reconsideration petition was pending, MBI sold KFLY to Jacor Licensee of Louisville, Inc. ("Jacor"). In a

*Memorandum Opinion and Order*, 16 FCC Rcd 2272 (Chief, Allocations Branch 2001), the staff denied reconsideration.

On March 12, 2001, MBI and Jacor filed an Application for Review. During the pendency of the Application for Review, Jacor assigned KFLY to Citicasters. On May 27, 2004, the Commission released a *Memorandum Opinion and Order*, FCC 04-118, in which it upheld the denial of the 1997 Settlement Agreement, the grant of the KVMX Proposal, the grant of the LifeTalk Proposal and the denial of the KFLY Proposal.

On June 28, 2004, MBI and Citicasters each filed a Petition for Review with the United States Court of Appeals for the District of Columbia Circuit. As noted above, those cases have been consolidated and Infinity's motion to intervene in those cases has been granted.

Infinity's application to implement the upgrade of Station KVMX from Class C2 to C1, the KVMX License Application, remains pending.

Infinity, MBI and Citicasters wish to bring this entire matter to an end. Toward that objective, they have entered into the attached Settlement Agreement (the "2004 Settlement Agreement").

**B. The 2004 Settlement Agreement Complies with All Commission Requirements.**

The 2004 Settlement Agreement complies with Section 1.420(j) of the Commission's Rules. It also complies, to the extent applicable, with Section 73.3525 of the Commission's Rules. In return for the dismissal of the cases pending before the Court of Appeals and the filing of this joint request, Infinity has agreed to reimburse MBI and Citicasters their reasonable and prudent expenses incurred

in this proceeding up to a maximum of, respectively, \$58,000 for MBI and \$12,000 for Citicasters. This joint request is supported by declarations demonstrating compliance with the Commission's Rules.

Specifically, MBI submits herewith as Attachment B the declaration of Mario Pastega, President of MBI, which verifies the only consideration that MBI will receive is as specified in the 2004 Settlement Agreement, MBI did not file its application for the purpose of reaching or carrying out a settlement and approval of the 2004 Settlement Agreement is in the public interest and that it will conserve the resources of the party and the Commission and will speed final resolution of this proceeding. MBI also submits as Attachments C and D, respectively, the declarations of its consulting engineer, Robert McClanathan, and its communications attorney, Matthew McCormick, regarding the fees and expenses incurred by MBI in this proceeding with these professionals. Those fees and expenses total more than \$65,000, which substantially exceeds the "cap" for MBI set in the 2004 Settlement Agreement.<sup>2</sup>

Citicasters, for its part, submits as Attachment E the declaration of Jeff Littlejohn, its Senior Vice-President – Engineering, which verifies that the only consideration that Citicasters will receive

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<sup>2</sup> The Commission has indicated that a narrative statement describing the professional services provided is sufficient and that it is not necessary to submit detailed descriptions of the number and job levels of persons providing professional services or information as to the hours and billing of professionals of various job levels. *See Amendment of Section 73.3525 of the Commission's Rules Regarding Settlement Agreements Among Applicants for Construction Permits*, 6 FCC Rcd 85, ¶ 17 & n.54 (1990), *recon. granted on other grounds*, 6 FCC Rcd 2901 (1991). The Commission has also made clear that expenses incurred in negotiating a settlement agreement, such as the 1997 Settlement Agreement, are reimbursable. *Id.* at ¶ 16 & n.53.

is as specified in the 2004 Settlement Agreement and that approval of the 2004 Settlement Agreement is in the public interest in that it will conserve the resources of the parties and the Commission and will speed final resolution of this proceeding. Additionally, Citicasters submits as Attachment F the declaration of Marisa G. Repp, a partner in the law firm of Hogan & Hartson, LLP, which has served as communications counsel for both Jacor and Citicasters in this proceeding. Ms. Repp's declaration verifies that Jacor and Citicasters have incurred in excess of \$12,000 in reasonable and prudent expenses with Hogan & Hartson, LLP in connection with this proceeding.<sup>3</sup>

Finally, included as Attachment G is the declaration of Stephen A. Hildebrandt, Vice President of Infinity Radio, Inc. in which he also verifies that the only consideration that MBI or Citicasters will receive is as specified in the 2004 Settlement Agreement and that approval of the 2004 Settlement Agreement is in the public interest for the same reasons voiced by MBI and Citicasters.

Within five (5) business days after FCC approval of this joint request becomes a final order, MBI and Citicasters each shall file a request with the United States Court of Appeals for dismissal of their respective Petitions for Review.


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<sup>3</sup> Neither Jacor nor Citicasters seeks reimbursement of expenses other than such legal expenses associated with this proceeding.

WHEREFORE, in light of all circumstances present and the documentation submitted herewith, this Joint Request for Approval of Settlement Agreement and the KVMX License Application should be GRANTED.

Reddy, Begley & McCormick, LLP  
1156 15<sup>th</sup> Street, N.W., Suite 610  
Washington, D.C. 20005  
(202) 659-5700

MADGEKAL BROADCASTING, INC.

By: 

Matthew H. McCormick  
Its Counsel

Hogan & Hartson, LLP  
555 13<sup>th</sup> Street, NW  
Washington, D.C. 20004  
(202) 637-6845

CITICASTERS LICENSES, L.P.

By: 

Marissa G. Repp  
Its Counsel

INFINITY RADIO INC.

Leventhal Senter & Lerman PLLC  
2000 K Street, NW, Suite 600  
Washington, D.C. 20006  
(202) 416-6746

By: \_\_\_\_\_  
Steven A. Lerman  
Deborah R. Coleman  
Its Counsel

August 4, 2004

WHEREFORE, in light of all circumstances present and the documentation submitted herewith, this Joint Request for Approval of Settlement Agreement and the KVMX License Application should be GRANTED.

MADGEKAL BROADCASTING, INC.

Reddy, Begley & McCormick, LLP  
1156 15<sup>th</sup> Street, N.W., Suite 610  
Washington, D.C. 20005  
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By: \_\_\_\_\_  
Matthew H. McCormick  
Its Counsel

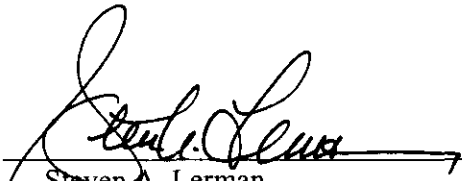
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Washington, D.C. 20006  
(202) 416-6746

By:  \_\_\_\_\_  
Steven A. Lerman  
Deborah R. Coleman  
Its Counsel

August 4, 2004



## **2004 Settlement Agreement**

## SETTLEMENT AGREEMENT

This Settlement Agreement dated as of July \_\_\_\_, 2004 (the "2004 Settlement Agreement") is by and among Infinity Radio Inc., licensee of Station KVMX(FM), Banks, Oregon ("Infinity"), Madgekal Broadcasting, Inc. ("MBI") and Citicasters Licenses, L.P., licensee of Station KFLY(FM), Corvallis, Oregon ("Citicasters"). Infinity, MBI and Citicasters are collectively referred to herein as the "parties." KMZ Rosenman is a party to this 2004 Settlement Agreement solely for the purpose of Section 5 hereof.

This 2004 Settlement Agreement is made with reference to the following facts:

A. Common Ground Broadcasting, Inc., the then licensee of Station KVMX, filed a Notice of Proposed Rule Making and Order to Show Cause, 11 FCC Rcd 1686 (1996), which, among other things, proposed the upgrade of Station KVMX (then KDBX) from Class C2 to Class C1 (the "KVMX Proposal").

B. MBI, the then licensee of Station KFLY, filed a one-step upgrade application (FCC File No. BPH-960206IE) to upgrade Station KFLY from Class C2 to Class C (the "KFLY Proposal").

C. Because the KVMX Proposal and the KFLY Proposal were in conflict with one another, they were consolidated for consideration. American Radio Systems License Corp. ("ARS"), which had acquired the license for Station KVMX, and MBI entered into a Settlement Agreement dated March 20, 1997 (the "1997 Settlement Agreement"), pursuant to which MBI agreed to amend the KFLY Proposal so that it would no longer conflict with the KVMX Proposal and, in return, ARS agreed to pay MBI Nine Hundred Fifty Thousand Dollars (\$950,000) (the "1997 Settlement Amount") subject to the FCC's approval.

D. Pursuant to the 1997 Settlement Agreement, ARS placed Ninety-Five Thousand Dollars (\$95,000) (the "Escrow Deposit") into escrow with Rosenman & Colin LLP (now KMZ Rosenman) (the "Escrow Agent").

E. Pursuant to the 1997 Settlement Agreement, ARS and MBI filed a joint request for approval of the 1997 Settlement Agreement. In its Report and Order, 13 FCC Rcd 6596 (1998) (the "Report and Order"), the Mass Media Bureau refused to approve the 1997 Settlement Agreement, finding that the 1997 Settlement Amount exceeded MBI's legitimate and prudent expenses. The Bureau then compared the proposed allotments and granted the upgrade of KVMX that had been proposed in the KVMX Proposal and denied the upgrade of KFLY that had been proposed in the KFLY Proposal.

F. MBI filed a Petition for Reconsideration, which was denied. Memorandum Opinion and Order, 16 FCC Rcd 2272 (2001). MBI and Jacor Licensee of Louisville, Inc., which had acquired the license for Station KFLY, filed an Application for Review. On May 27, 2004,

the FCC upheld (i) the Mass Media Bureau's denial of the 1997 Settlement Agreement, (ii) the Bureau's grant of the KVMX upgrade, and (iii) the Bureau's denial of the KFLY upgrade. Memorandum Opinion and Order, FCC 04-118 (released May 27, 2004).

G. On June 28, 2004, MBI filed a Petition for Review (the "MBI Court Appeal") with the U.S. Court of Appeals for the District of Columbia (the "Court of Appeals") (Docket 04-1202). On June 28, 2004, Citicasters, the current licensee of Station KFLY, filed a Petition for Review (the "Citicasters Court Appeal") with the Court of Appeals (Docket 04-1204).

H. Infinity, successor in interest to ARS, has two applications pending for Station KVMX: a license application to implement the upgrade of Station KVMX from Class C2 to Class C1, BLH-19990305KD (the "KVMX License Application") and an application to further upgrade Station KVMX from Class C1 to Class C0, BPH-20010122AEH (the "KVMX CP Application").

I. In order to resolve this proceeding, the parties hereto have agreed to enter into this 2004 Settlement Agreement.

Therefore, intending to be legally bound, the parties agree:

1. Requests for Abeyance of Court Appeals. Within five (5) business days after execution of this 2004 Settlement Agreement, MBI, Citicasters and Infinity shall file joint requests with the Court of Appeals asking that the MBI Court Appeal and the Citicasters Court Appeal be held in abeyance, pending the parties' submission to the FCC and the FCC's consideration of the 2004 Settlement Agreement (collectively, the "Requests for Abeyance").

2. Request for FCC Approval. Within ten (10) business days after execution of this 2004 Settlement Agreement, Infinity, MBI and Citicasters shall file with the FCC a joint request for approval of this 2004 Settlement Agreement and for grant of the KVMX License Application (the "Joint Request").

With the Joint Request, there shall be filed a copy of this 2004 Settlement Agreement and the declarations of one or more principals of each of the parties to this Agreement setting forth the reasons why this 2004 Settlement Agreement is in the public interest and, for MBI, stating that its application was not filed for the purpose of reaching or carrying out a settlement.

3. Requests for Dismissal of Court Appeals. Within five (5) business days after FCC approval of the Joint Request becomes a Final Order, (a) MBI shall file with the Court of Appeals a request for dismissal of the MBI Court Appeal, and (b) Citicasters shall file with the Court of Appeals a request for dismissal of the Citicasters Court Appeal (collectively, the "Requests for Dismissal").

4. Consideration.

a. Subject to FCC approval of the Joint Request, Infinity agrees to pay MBI the sum (the "MBI Consideration") equal to the lesser of (a) the total of the legitimate and prudent expenses incurred by MBI in preparing and prosecuting the KFLY Proposal and approved by the FCC, and (b) Fifty-Eight Thousand Dollars (\$58,000), provided however that such sum shall only be paid out of the Escrow Deposit and shall be paid in accordance with Section 5 below.

b. Subject to FCC approval of the Joint Request, Infinity agrees to pay Citicasters the sum (the "Citicasters Consideration") equal to the lesser of (a) the total of the legitimate and prudent expenses incurred by Citicasters in prosecuting the KFLY Proposal and approved by the FCC, and (b) Twelve Thousand Dollars (\$12,000), provided however that such sum shall only be paid out of the Escrow Deposit and shall be paid in accordance with Section 5 below.

5. Escrow Deposit. Within five (5) business days after (a) the FCC's approval of the Joint Request has become a Final Order and (b) dismissal of the MBI Court Appeal and the Citicasters Court Appeal (or upon such earlier date as mutually agreed upon by the parties, so long as FCC approval of the Joint Request has been granted), Infinity, MBI and Citicasters shall jointly request that the Escrow Agent release the Escrow Deposit and all interest earned thereon as follows: (x) the MBI Consideration shall be paid to MBI, (y) the Citicasters Consideration shall be paid to Citicasters, and (z) all remaining funds (the Escrow Deposit and all interest earned thereon less the MBI Consideration and the Citicasters Consideration) shall be paid to Infinity. Escrow Agent agrees that, upon receiving such joint request, it will distribute the Escrow Deposit and interest accordingly. Infinity shall be responsible for the satisfaction of any and all claims of the Internal Revenue Service arising from interest earned on the Escrow Deposit.

6. Mutual Release. Except as expressly provided in this 2004 Settlement Agreement, the parties agree to release each other from any and all claims as follows:

a. Each of MBI and Citicasters hereby releases and forever discharges Infinity, its parent companies and affiliates (including without limitation ARS) and their respective officers, directors, employees and representatives and the successors and assigns of any of them from, and hereby acknowledges full accord and satisfaction of, any and all past, present or future claims, demands, obligations, actions, causes of action, damages, costs, expenses, compensation of any nature whatsoever, known or unknown, whether based on tort, contract, or other theory of recovery and whether for compensatory or punitive damages, based on acts occurring prior to the execution of this 2004 Settlement Agreement that arise directly or indirectly out of or relate to the 1997

Settlement Agreement.

b. Infinity hereby releases and forever discharges MBI, Citicasters, their parent companies and affiliates and their respective officers, directors, employees and representatives and the successors and assigns of any of them from, and hereby acknowledges full accord and satisfaction of, any and all past, present or future claims, demands, obligations, actions, causes of action, damages, costs, expenses, compensation of any nature whatsoever, known or unknown, whether based on tort, contract, or other theory of recovery and whether for compensatory or punitive damages, based on acts occurring prior to the execution of this 2004 Settlement Agreement that arise directly or indirectly out of or relate to the 1997 Settlement Agreement.

c. The parties hereby expressly waive and assume the risk of any and all claims for damages relating to the 1997 Settlement Agreement which exist as of this date but of which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence, fraud, willful concealment or otherwise, even if such a claim would materially affect their decision to enter into this 2004 Settlement Agreement. The parties also each assume the risk that the facts or the law may be otherwise than he, she or it believes.

7. Termination of 1997 Settlement Agreement. The parties agree that the 1997 Settlement Agreement shall be terminated and that each of the parties hereto shall be relieved of any liability or obligations under the 1997 Settlement Agreement upon dispersal of the Escrow Deposit as set forth in Section 5 hereof.

8. No Adverse Actions; Future Cooperation. The parties shall cooperate in the diligent preparation and filing of all documents that are necessary or appropriate to secure FCC (or court) approval of this 2004 Settlement Agreement and the Joint Request and dismissal of the MBI Court Appeal and the Citicasters Court Appeal. The parties shall respond promptly and fully to any requests by the FCC (or court) for information relating to this 2004 Settlement Agreement, the Joint Request, the Requests for Abeyance or the Requests for Dismissal and agree to provide the FCC (or court) with such information within five (5) business days after each such request. Each party shall bear all of its own expenses incurred in connection with preparing, filing and prosecuting this 2004 Settlement Agreement, the Joint Request, the Requests for Abeyance and the Requests for Dismissal. Each party agrees that it will not file directly or indirectly, or cause or encourage any other person or entity to file directly or indirectly, any petition, objection, or other submission before the FCC or any court that opposes, delays or impairs, or is inconsistent with, approval of the 2004 Settlement Agreement, the Joint Request, the Requests for Abeyance, the Requests for Dismissal, the KVMX License Application

or the KVMX CP Application.

9. Remedies on Default. Infinity, MBI and Citicasters each recognize that, in the event any of them defaults in the performance of its respective obligations under this 2004 Settlement Agreement, monetary damages alone will not be adequate. Each party shall therefore be entitled in such event, in addition to bringing suit at law or equity for money or other damages, to obtain specific performance of the terms of this 2004 Settlement Agreement. In any action to enforce the provisions of this 2004 Settlement Agreement, each party shall waive the defense that there is an adequate remedy at law or equity and agree that any party hereto shall have the right to obtain specific performance of the terms of this 2004 Settlement Agreement without being required to prove actual damages, post bond or furnish other security. In addition, any party hereto shall be entitled to obtain from any other party hereto court costs and reasonable attorneys' fees incurred by it in enforcing its rights against such other party hereunder. As a condition to seeking specific performance, Infinity shall not be required to have tendered any payments due hereunder, but shall be ready, willing and able to authorize Escrow Agent to disburse the Escrow Deposit as set forth in Section 5 hereof.

10. Publicity. Except as required by applicable law or with the other party's express written consent, no party to this 2004 Settlement Agreement nor any affiliate of any party shall issue any press release or make any public statement (oral or written) regarding the existence or the terms of this 2004 Settlement Agreement.

11. Benefit and Assignment. This 2004 Settlement Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

12. Entire Agreement. This 2004 Settlement Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein, including without limitation the 1997 Settlement Agreement. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this 2004 Settlement Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought.

13. Headings. The headings set forth in this 2004 Settlement Agreement are for convenience only and shall not control or affect the meaning or construction of the provisions of this 2004 Settlement Agreement.

14. Governing Law. The construction and performance of this 2004 Settlement Agreement shall be governed by the laws of the State of New York without regard to its principles of conflict of law. The parties agree that courts located in the State of New York shall have exclusive jurisdiction over any dispute arising under this 2004 Settlement Agreement.

15. Severability. Should any provision contained in this 2004 Settlement

Agreement is held to be invalid, illegal or unenforceable in any respect by any court or other authority, the parties shall proceed so as to secure approval of an agreement which most nearly reflects the intentions of the parties as reflected in this 2004 Settlement Agreement.

16. Notices. Any notice, demand or request required or permitted to be given under the provisions of this 2004 Settlement Agreement shall be in writing, addressed to the following addresses, or to such other address as any party may request.

If to Infinity:

Infinity Radio Inc.  
1515 Broadway, 46<sup>th</sup> Floor  
New York, NY 10036  
Attn: Joel Hollander

With a copy to:

Leventhal, Senter & Lerman PLLC  
2000 K Street, NW, Suite 600  
Washington, DC 20006  
Attn: Steven Lerman, Esq.

If to MBI:

Madgekal Broadcasting, Inc.  
c/o Mario Pastega  
P.O. Box 1103  
Corvallis, OR 97339

Overnight Delivery:

Madgekal Broadcasting, Inc.  
c/o Mario Pastega  
2636 N.E. Belvue  
Corvallis, OR 97330

With a copy to:

Reddy, Begley & McCormick, LLP  
1156 15<sup>th</sup> Street, NW, Suite 610  
Washington, DC 20005  
Attn: Matthew McCormick, Esq.

If to Citicasters:

Citicasters Licenses, L.P.  
c/o Clear Channel Communications, Inc.  
200 Rast Basse Road  
San Antonio, TX 78209  
Attn: Chief Legal Officer

With a copy to:

Hogan & Hartson, LLP  
555 13<sup>th</sup> Street, NW  
Washington, DC 20004  
Attn: Marissa Repp, Esq.

Any such notice, demand or request shall be deemed to have been duly delivered and received (i) on the date of personal delivery, or (ii) on the date of receipt, if mailed by registered or certified mail, postage prepaid and return receipt requested, or (iii) on the date of a signed receipt, if sent by an overnight delivery service, but only if sent in the same manner to all persons entitled to receive notice or a copy.

17. Counterparts. This 2004 Settlement Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

18. Representation by Counsel. Each party to this 2004 Settlement Agreement represents that he, she or it has read this 2004 Settlement Agreement in its entirety, has consulted with his, her or its respective counsel about this 2004 Settlement Agreement, that such counsel has reviewed and explained each of the terms and conditions hereof with such party, and that he, she or it fully understands and accepts each term and condition hereof.

19. Final Order. For purposes of this Agreement, a "Final Order" shall be deemed to be an action by the Commission or its delegated authorities that, pursuant to the rules and regulations of the FCC or the Communications Act of 1934, as amended, is no longer subject to, or the subject of, administrative or judicial review, reconsideration or stay.



IN WITNESS WHEREOF, the parties hereto have caused this 2004 Settlement Agreement to be duly executed as of the date first written above.

Infinity Radio Inc.

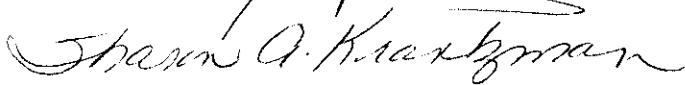
By:



Name: Stephen A. Hildebrandt

Position: Vice President

Sworn to before me  
this 14<sup>th</sup> day of July, 2004



Notary Public

SHARON A. KRANTZMAN  
Notary Public District of Columbia  
My Commission Expires February 28, 2009

Madgekal Broadcasting, Inc.

By:

Name: Mario Pastega

Position: President

Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2004

Notary Public

Citicasters Licenses, L.P.

By:

Name:

Position:

Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2004

Notary Public

IN WITNESS WHEREOF, the parties hereto have caused this 2004 Settlement Agreement to be duly executed as of the date first written above.

Infinity Radio Inc.

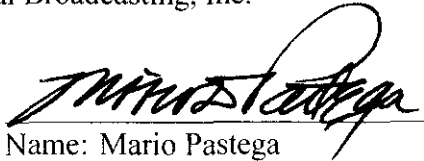
By: \_\_\_\_\_  
Name:  
Position:

Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2004

Notary Public



Madgekal Broadcasting, Inc.

By:   
Name: Mario Pastega  
Position: President

Sworn to before me  
this 17 day of July, 2004

Notary Public

Citicasters Licenses, L.P.

By: \_\_\_\_\_  
Name:  
Position:

Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2004

Notary Public

IN WITNESS WHEREOF, the parties hereto have caused this 2004 Settlement Agreement to be duly executed as of the date first written above.

Infinity Radio Inc.

By: \_\_\_\_\_  
Name:  
Position:

Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2004

Notary Public

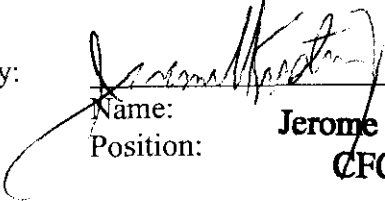
Madgekal Broadcasting, Inc.

By: \_\_\_\_\_  
Name: Mario Pastega  
Position: President

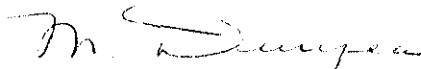
Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2004

Notary Public

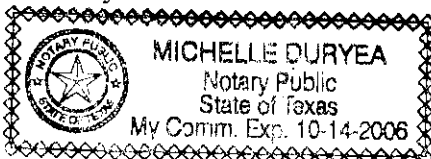
Citicasters Licenses, L.P.

By:  \_\_\_\_\_  
Name: **Jerome L. Kersting**  
Position: **CFO-Radio**

Sworn to before me  
this 14<sup>th</sup> day of July, 2004



Notary Public



KMZ Rosenman is a party to this 2004 Settlement Agreement solely for the purpose of Section 5.

KMZ Rosenman

By:



Name:

Position: *Partner*